

By: Lucio

S.B. No. 492

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of prescribed pediatric extended care centers; providing penalties; imposing fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle B, Title 4, Health and Safety Code, is amended by adding Chapter 248A to read as follows:

CHAPTER 248A. PRESCRIBED PEDIATRIC EXTENDED CARE CENTERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 248A.001. DEFINITIONS. In this chapter:

(1) "Basic services" includes:

(A) the development, implementation, and monitoring of a comprehensive protocol of care that:

(i) is provided to a medically dependent or technologically dependent minor;

(ii) is developed in conjunction with the minor's parent or legal guardian; and

(iii) specifies the medical, nursing, psychosocial, therapeutic, and developmental services required by the minor served; and

(B) the caregiver training needs of the minor's parent or legal guardian.

(2) "Center" means a prescribed pediatric extended care center.

(3) "Commission" means the Health and Human Services

1 Commission.

2 (4) "Commissioner" means the commissioner of state  
3 health services.

4 (5) "Controlling interest" means:

5 (A) the applicant or license holder;

6 (B) a person or entity that serves as an officer  
7 of, is on the board of directors of, or has a five percent or greater  
8 ownership interest in the applicant or license holder; or

9 (C) a person or entity that serves as an officer  
10 of, is on the board of directors of, or has a five percent or greater  
11 ownership interest in the management company or other entity,  
12 related or unrelated, with which the applicant or license holder  
13 contracts to manage the center.

14 (6) "Department" means the Department of Aging and  
15 Disability Services.

16 (7) "Executive commissioner" means the executive  
17 commissioner of the commission.

18 (8) "Medically dependent or technologically dependent  
19 minor" means a minor who because of an acute, chronic, or  
20 intermittent medical condition or disability requires:

21 (A) ongoing, technology-based skilled nursing  
22 supervision prescribed by the minor's physician; or

23 (B) the routine use of a medical device to  
24 compensate for a deficit in a life-sustaining body function.

25 (9) "Minor" means an individual younger than 21 years  
26 of age.

27 (10) "Prescribed pediatric extended care center"

1 means a facility operated for profit or on a nonprofit basis that  
2 provides nonresidential basic services to three or more medically  
3 dependent or technologically dependent minors who require the  
4 services of the facility and who are not related by blood, marriage,  
5 or adoption to the owner or operator of the facility.

6 Sec. 248A.002. EXEMPTIONS. This chapter does not apply to:

7 (1) a facility operated by the United States  
8 government or a federal agency; or

9 (2) a health facility otherwise licensed under this  
10 subtitle.

11 Sec. 248A.003. CONFLICT WITH LOCAL LAWS. To the extent of  
12 any conflict between the standards adopted under this chapter and a  
13 standard required in a local, county, or municipal ordinance, this  
14 chapter controls.

15 SUBCHAPTER B. LICENSING OF CENTERS

16 Sec. 248A.051. LICENSE REQUIRED; PREMISES RESTRICTION. (a)  
17 A person may not own or operate a prescribed pediatric extended care  
18 center in this state unless the person holds a license issued under  
19 this chapter.

20 (b) A separate license is required for each center located  
21 on separate premises, regardless of whether the centers are under  
22 the ownership or operation of the same person.

23 (c) A person may not operate a center on the same premises as  
24 a child-care facility licensed under Chapter 42, Human Resources  
25 Code.

26 Sec. 248A.052. APPLICATION; ISSUANCE. (a) An applicant for  
27 a prescribed pediatric extended care center license shall submit to

1 the department in accordance with executive commissioner rules:

2 (1) a sworn application on the form prescribed by the  
3 department;

4 (2) a letter of credit as prescribed by the department  
5 to demonstrate the applicant's financial viability; and

6 (3) the required fees.

7 (b) The application must contain:

8 (1) the location of the premises of the center for  
9 which the license is sought;

10 (2) documentation, signed by the appropriate local  
11 government official, stating the applicant has met local zoning  
12 requirements;

13 (3) the name, address, and social security number of,  
14 and background and criminal history check information for:

15 (A) the applicant;

16 (B) the administrator responsible for daily  
17 operations of the center; and

18 (C) the financial officer responsible for  
19 financial operations of the center;

20 (4) the name, address, and federal employer  
21 identification number or taxpayer identification number of the  
22 applicant and of each controlling interest, if the applicant or  
23 controlling interest is not an individual;

24 (5) the business name of the center;

25 (6) the maximum patient capacity requested for the  
26 center; and

27 (7) a sworn affidavit that the applicant has complied

1 with this chapter and rules adopted under this chapter.

2 (c) The department shall issue a license to a center under  
3 this chapter if the department determines that the applicant and  
4 the center meet the requirements of this chapter and the rules and  
5 standards adopted under this chapter. The license must include:

6 (1) the license holder's name;

7 (2) the location of the premises of the center; and

8 (3) a statement indicating the center provides  
9 services to minors for 12 hours or less in a 24-hour period and does  
10 not provide 24-hour care.

11 Sec. 248A.053. LICENSE TERM; RENEWAL; NOTIFICATION. (a) A  
12 license issued under this chapter expires on the second anniversary  
13 of the date of issuance.

14 (b) A person applying to renew a center license shall:

15 (1) submit a renewal application to the department on  
16 the form prescribed by the department at least 60 days but not more  
17 than 120 days before expiration of the license;

18 (2) submit the renewal fee in the amount required by  
19 the department; and

20 (3) comply with any other requirements specified by  
21 executive commissioner rule.

22 (c) The department shall assess a \$50 per day late fee to a  
23 license holder who submits a renewal application after the date  
24 required by Subsection (b)(1), except that the total amount of a  
25 late fee may not exceed the lesser of 50 percent of the license  
26 renewal fee or \$500.

27 (d) At least 90 days before expiration of a center license,

1 the department shall notify the owner or operator of the center of  
2 the license expiration.

3 Sec. 248A.054. LICENSE NOT TRANSFERABLE OR ASSIGNABLE. A  
4 license under this chapter is issued to the license holder named on  
5 the license at the location of the premises listed on the license  
6 and is not transferable or assignable.

7 SUBCHAPTER C. POWERS AND DUTIES OF

8 EXECUTIVE COMMISSIONER, COMMISSION, AND DEPARTMENT

9 Sec. 248A.101. ADOPTION OF RULES AND STANDARDS. (a) The  
10 executive commissioner shall adopt rules necessary to implement  
11 this chapter.

12 (b) To protect the health and safety of the public and  
13 ensure the health, safety, and comfort of the minors served by a  
14 center, the rules must establish minimum center standards,  
15 including:

16 (1) standards relating to the issuance, renewal,  
17 denial, suspension, probation, and revocation of a license to  
18 operate a center;

19 (2) standards relating to the provision of  
20 family-centered basic services that include individualized  
21 medical, developmental, and family training services;

22 (3) based on the size of the building and the number of  
23 minors served, building construction and renovation standards,  
24 including standards for plumbing, electrical, glass, manufactured  
25 buildings, accessibility for the physically disabled, and fire  
26 protection;

27 (4) based on the size of the building and the number of

1 minors served, building maintenance conditions relating to  
2 plumbing, heating, lighting, ventilation, adequate space, fire  
3 protection, and other conditions;

4 (5) standards relating to the minimum number of and  
5 qualifications required for personnel who provide personal care or  
6 basic services to the minors served;

7 (6) standards relating to the sanitary conditions  
8 within a center and its surroundings, including water supply,  
9 sewage disposal, food handling, and general hygiene;

10 (7) standards relating to the programs offered by the  
11 center to promote and maintain the health and development of the  
12 minors served and to meet the training needs of the minors' parents  
13 or legal guardians;

14 (8) standards relating to physician-prescribed  
15 supportive or ancillary services;

16 (9) standards relating to transportation services;  
17 and

18 (10) standards relating to maintenance of patient  
19 medical records and program records in accordance with other law  
20 and with accepted professional standards and practices.

21 Sec. 248A.102. INSPECTIONS; CORRECTIVE ACTION PLAN. (a)  
22 The department may inspect a center, including its records, at  
23 reasonable times as necessary to ensure compliance with this  
24 chapter and the rules adopted under this chapter. The center shall  
25 provide the department with access to all center records.

26 (b) The department shall inspect a center before issuing or  
27 renewing a license under this chapter.

1       (c) The department may require a center that undergoes an  
2 inspection to:

3           (1) take appropriate corrective action the department  
4 determines is necessary to comply with the requirements of this  
5 chapter and rules adopted under this chapter; and

6           (2) submit a corrective action plan that demonstrates  
7 a good faith effort to remedy violations.

8       (d) The department may charge a center a reasonable fee for  
9 an inspection and for the cost of services provided by the  
10 department in formulating, monitoring, and implementing a  
11 corrective action plan under this section.

12       (e) A center shall make available to any person on request a  
13 copy of each inspection report pertaining to the center that has  
14 been issued by the department. Before making an inspection report  
15 available under this subsection, the center shall redact from the  
16 report any information that is confidential under other law.

17       Sec. 248A.103. FEES. (a) The executive commissioner shall  
18 set fees imposed by this chapter in amounts reasonable and  
19 necessary to cover the cost of administering this chapter.

20       (b) A fee collected under this chapter shall be deposited in  
21 the state treasury to the credit of the general revenue fund and  
22 shall be appropriated to the department to administer and enforce  
23 this chapter.

24       (c) A fee collected under this chapter is nonrefundable.

25       Sec. 248A.104. COMMISSION DUTIES. The commission shall  
26 designate a center licensed under this chapter as a health care  
27 services provider under the medical assistance program established

1 under Chapter 32, Human Resources Code.

2 SUBCHAPTER D. CENTER REGULATION

3 Sec. 248A.151. ADMISSION CRITERIA FOR MINOR CLIENT. A

4 center may not admit a minor client to the center unless:

5 (1) the client is a medically dependent or  
6 technologically dependent minor;

7 (2) the minor's prescribing physician issues a  
8 prescription ordering care at a center; and

9 (3) the minor's parent or legal guardian consents to  
10 the minor's admission to the center.

11 Sec. 248A.152. RESTRICTIONS ON HOURS, SERVICES, AND PATIENT  
12 CAPACITY. (a) A center may not provide services to a minor for more  
13 than 12 hours in any 24-hour period.

14 (b) A center may not provide services other than services  
15 regulated under this chapter and executive commissioner rule.

16 (c) The maximum patient capacity at a center may not exceed  
17 60.

18 Sec. 248A.153. LICENSE DISPLAY. Each center licensed under  
19 this chapter shall display the center's license in a conspicuous  
20 location readily visible to a person entering the center.

21 Sec. 248A.154. BACKGROUND AND CRIMINAL HISTORY CHECKS  
22 REQUIRED. (a) A center must:

23 (1) obtain through the department a background and  
24 criminal history check on each individual seeking employment with  
25 the center who is expected to or whose responsibilities would  
26 require the individual to provide personal care, as defined by  
27 department rule, or basic services directly to clients, including

1 an individual for whom information must be obtained under Chapter  
2 250; and

3 (2) for the initial center license and annually,  
4 obtain through the department a background and criminal history  
5 check on:

6 (A) each employee whose responsibilities require  
7 the employee to provide personal care, as defined by department  
8 rule, or basic services directly to clients;

9 (B) each center owner or operator who is an  
10 individual;

11 (C) each administrator responsible for the  
12 center's daily operations; and

13 (D) each financial officer responsible for the  
14 center's financial operations.

15 (b) In accordance with rules adopted by the executive  
16 commissioner, a center must submit to the department for use in  
17 conducting background and criminal history checks the name of each  
18 person described by Subsection (a).

19 (c) The background and criminal history checks shall be  
20 conducted using:

21 (1) the information provided under Subsection (b);

22 (2) the criminal history record information made  
23 available by the Department of Public Safety under Section  
24 411.1105, Government Code, or by the Federal Bureau of  
25 Investigation or other criminal justice agency under Section  
26 411.087, Government Code; and

27 (3) the department's records of reported or

1 substantiated abuse and neglect, including the employee misconduct  
2 registry established under Chapter 253.

3 (d) The department shall require the center to pay to the  
4 department a fee in an amount not to exceed the administrative costs  
5 the department incurs in conducting background and criminal history  
6 checks under this section.

7 Sec. 248A.155. MAINTENANCE OF RECORDS. Each center shall  
8 maintain at the center the medical and other records required by  
9 this chapter and by rules adopted under this chapter.

10 Sec. 248A.156. COMPLAINTS. A person may file a complaint  
11 with the department against a center licensed or required to be  
12 licensed under this chapter. The department shall investigate the  
13 complaint in accordance with the complaint procedures established  
14 under Chapter 1001.

15 Sec. 248A.157. CLOSING OF CENTER. At least 30 days before  
16 the date a center voluntarily discontinues operation, the owner or  
17 operator of the center shall inform the parent or legal guardian of  
18 each minor client to whom the center is providing services of:

- 19 (1) the discontinuance; and  
20 (2) the proposed time of the discontinuance.

21 SUBCHAPTER E. GENERAL ENFORCEMENT

22 Sec. 248A.201. DENIAL, SUSPENSION, OR REVOCATION OF  
23 LICENSE. (a) The department may deny, suspend, or revoke a license  
24 issued under this chapter for:

- 25 (1) a violation of this chapter or a rule or standard  
26 adopted under this chapter;  
27 (2) an intentional or negligent act by the center or an

1 employee of the center that the department determines significantly  
2 affects the health or safety of a minor served by the center;

3 (3) use of drugs or intoxicating liquors to an extent  
4 that affects the license holder's or applicant's professional  
5 competence;

6 (4) a felony conviction, including a finding or  
7 verdict of guilty, an admission of guilt, or a plea of nolo  
8 contendere, in this state or in any other state or nation of any  
9 person required to undergo a background and criminal history check  
10 under this chapter;

11 (5) fraudulent acts, including acts relating to  
12 Medicaid fraud and obtaining or attempting to obtain a license by  
13 fraud or deception; or

14 (6) a license revocation, suspension, or other  
15 disciplinary action taken against the license holder or any person  
16 listed in the application in another state or nation.

17 (b) Except as provided by Section 248A.203, the procedures  
18 by which the department denies, suspends, or revokes a license and  
19 by which those actions are appealed are governed by the procedures  
20 for a contested case hearing under Chapter 2001, Government Code.

21 Sec. 248A.202. PROBATION. (a) If the department finds  
22 that a center is in repeated noncompliance with this chapter, rules  
23 adopted under this chapter, or a corrective action plan, but that  
24 the noncompliance does not endanger a minor served by the center or  
25 the public health and safety, the department may schedule the  
26 center for probation rather than suspending or revoking the  
27 center's license.

1       (b) The department shall provide notice to the center of the  
2 probation and of the items of noncompliance not later than the 10th  
3 day before the date the probation period begins.

4       (c) The department shall designate a period of not less than  
5 30 days during which the center will remain under probation. During  
6 the probation period, the center must correct the items that were in  
7 noncompliance and report the corrections to the department for  
8 approval.

9       (d) The department may suspend or revoke the license of a  
10 center that does not correct items that were in noncompliance or  
11 does not comply with this chapter or the rules adopted under this  
12 chapter within the applicable probation period.

13       Sec. 248A.203. EMERGENCY SUSPENSION. (a) The department  
14 may issue an emergency order to suspend a license issued under this  
15 chapter if the department has reasonable cause to believe that the  
16 conduct of a license holder creates an immediate danger to a minor  
17 served by the center or the public health and safety. An emergency  
18 suspension is effective immediately without a hearing on notice to  
19 the license holder.

20       (b) On written request of the license holder, the department  
21 shall conduct a hearing not earlier than the 10th day or later than  
22 the 30th day after the date the hearing request is received to  
23 determine if the emergency suspension is to be continued, modified,  
24 or rescinded.

25       (c) The hearing and any appeal are governed by the  
26 department's rules for a contested case hearing and by Chapter  
27 2001, Government Code.

1       Sec. 248A.204. INJUNCTION. (a) The department may  
2 petition a district court for a temporary restraining order to  
3 restrain a continuing violation of this chapter or a rule or  
4 standard adopted under this chapter if the department finds that  
5 the violation creates an immediate threat to the health and safety  
6 of the minors served by a center.

7       (b) A district court, on petition of the department and on a  
8 finding by the court that a person is violating this chapter or the  
9 rules adopted under this chapter, may by injunction:

- 10           (1) prohibit the person from continuing the violation;  
11           (2) restrain or prevent the establishment or operation  
12 of a center without a license issued under this chapter; or  
13           (3) grant any other injunctive relief warranted by the  
14 facts.

15       (c) The attorney general shall institute and conduct a suit  
16 authorized by this section at the request of the department. The  
17 attorney general and the department may recover reasonable expenses  
18 incurred in obtaining relief under this section, including court  
19 costs, reasonable attorney's fees, investigation costs, witness  
20 fees, and deposition expenses.

21       (d) Venue for a suit brought under this section is in the  
22 county in which the center is located or in Travis County.

23       Sec. 248A.205. CIVIL PENALTY. (a) A person who violates  
24 this chapter or a rule or standard adopted under this chapter or who  
25 fails to comply with a corrective action plan submitted under this  
26 chapter is liable for a civil penalty of not more than \$500 for each  
27 violation if the department determines the violation threatens the

1 health and safety of a minor served by the center.

2 (b) Each day a violation continues constitutes a separate  
3 violation for the purposes of this section.

4 (c) The attorney general may sue to collect the penalty.  
5 The attorney general and the department may recover reasonable  
6 expenses incurred in obtaining relief under this section, including  
7 court costs, reasonable attorney's fees, investigation costs,  
8 witness fees, and deposition expenses.

9 (d) All penalties collected under this section shall be  
10 deposited in the state treasury in the general revenue fund.

11 Sec. 248A.206. CRIMINAL PENALTY. (a) A person commits an  
12 offense if the person knowingly establishes or operates a center  
13 without the appropriate license issued under this chapter.

14 (b) An offense under this section is a Class B misdemeanor.

15 (c) Each day a violation continues constitutes a separate  
16 offense.

17 SUBCHAPTER F. ADMINISTRATIVE PENALTY

18 Sec. 248A.251. IMPOSITION OF PENALTY. The commissioner may  
19 impose an administrative penalty on a person licensed under this  
20 chapter who violates this chapter or a rule or standard adopted or  
21 order issued under this chapter.

22 Sec. 248A.252. AMOUNT OF PENALTY. (a) The amount of the  
23 penalty may not exceed \$500 for each violation, and each day a  
24 violation continues or occurs is a separate violation for purposes  
25 of imposing a penalty.

26 (b) The amount shall be based on:

27 (1) the seriousness of the violation, including the

- 1 nature, circumstances, extent, and gravity of the violation;  
2 (2) the threat to health or safety caused by the  
3 violation;  
4 (3) any previous violations;  
5 (4) the amount necessary to deter a future violation;  
6 (5) whether the violator demonstrated good faith,  
7 including when applicable whether the violator made good faith  
8 efforts to correct the violation; and  
9 (6) any other matter that justice may require.

10 Sec. 248A.253. REPORT AND NOTICE OF VIOLATION AND PENALTY.

11 (a) If the department initially determines that a violation  
12 occurred, the department shall give written notice of the report by  
13 certified mail to the person.

14 (b) The notice must:

- 15 (1) include a brief summary of the alleged violation;  
16 (2) state the amount of the recommended penalty; and  
17 (3) inform the person of the person's right to a  
18 hearing on the occurrence of the violation, the amount of the  
19 penalty, or both.

20 Sec. 248A.254. PENALTY TO BE PAID OR HEARING REQUESTED. (a)

21 Not later than the 20th day after the date the person receives the  
22 notice sent under Section 248A.253, the person in writing may:

- 23 (1) accept the determination and recommended penalty  
24 of the department; or  
25 (2) make a request for a hearing on the occurrence of  
26 the violation, the amount of the penalty, or both.

27 (b) If the person accepts the determination and recommended

1 penalty or if the person fails to respond to the notice, the  
2 commissioner by order shall approve the determination and impose  
3 the recommended penalty.

4 Sec. 248A.255. HEARING. (a) If the person requests a  
5 hearing, the commissioner shall refer the matter to the State  
6 Office of Administrative Hearings, which shall promptly set a  
7 hearing date and give written notice of the time and place of the  
8 hearing to the person. An administrative law judge of the State  
9 Office of Administrative Hearings shall conduct the hearing.

10 (b) The administrative law judge shall make findings of fact  
11 and conclusions of law and promptly issue to the commissioner a  
12 proposal for a decision about the occurrence of the violation and  
13 the amount of a proposed penalty.

14 Sec. 248A.256. DECISION BY COMMISSIONER. (a) Based on the  
15 findings of fact, conclusions of law, and proposal for a decision,  
16 the commissioner by order may:

17 (1) find that a violation occurred and impose a  
18 penalty; or

19 (2) find that a violation did not occur.

20 (b) The notice of the commissioner's order under Subsection  
21 (a) that is sent to the person in accordance with Chapter 2001,  
22 Government Code, must include a statement of the right of the person  
23 to judicial review of the order.

24 Sec. 248A.257. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.  
25 Not later than the 30th day after the date the order of the  
26 commissioner imposing an administrative penalty under Section  
27 248A.256 becomes final, the person shall:

1           (1) pay the penalty; or

2           (2) file a petition for judicial review of the  
3 commissioner's order contesting the occurrence of the violation,  
4 the amount of the penalty, or both.

5           Sec. 248A.258. STAY OF ENFORCEMENT OF PENALTY. (a) Within  
6 the period prescribed by Section 248A.257, a person who files a  
7 petition for judicial review may:

8           (1) stay enforcement of the penalty by:

9                   (A) paying the penalty to the court for placement  
10 in an escrow account in the court registry; or

11                   (B) giving the court a supersedeas bond approved  
12 by the court that:

13                                   (i) is for the amount of the penalty; and

14                                   (ii) is effective until all judicial review  
15 of the commissioner's order is final; or

16           (2) request the court to stay enforcement of the  
17 penalty by:

18                   (A) filing with the court a sworn affidavit of  
19 the person stating that the person is financially unable to pay the  
20 penalty and is financially unable to give the supersedeas bond; and

21                   (B) sending a copy of the affidavit to the  
22 commissioner by certified mail.

23           (b) If the commissioner receives a copy of an affidavit  
24 under Subsection (a)(2), the commissioner may file with the court,  
25 not later than the fifth day after the date the copy is received, a  
26 contest to the affidavit. The court shall hold a hearing on the  
27 facts alleged in the affidavit as soon as practicable and shall stay

1 the enforcement of the penalty on finding that the alleged facts are  
2 true. The person who files an affidavit has the burden of proving  
3 that the person is financially unable to pay the penalty and to give  
4 a supersedeas bond.

5 Sec. 248A.259. COLLECTION OF PENALTY. (a) If the person  
6 does not pay the penalty and the enforcement of the penalty is not  
7 stayed, the penalty may be collected.

8 (b) The attorney general may sue to collect the penalty and  
9 may recover reasonable expenses, including attorney's fees,  
10 incurred in recovering the penalty.

11 (c) A penalty collected under this subchapter shall be  
12 deposited in the state treasury in the general revenue fund.

13 Sec. 248A.260. DECISION BY COURT. (a) If the court  
14 sustains the finding that a violation occurred, the court may  
15 uphold or reduce the amount of the penalty and order the person to  
16 pay the full or reduced amount of the penalty.

17 (b) If the court does not sustain the finding that a  
18 violation occurred, the court shall order that a penalty is not  
19 owed.

20 Sec. 248A.261. REMITTANCE OF PENALTY AND INTEREST. (a) If  
21 the person paid the penalty and if the amount of the penalty is  
22 reduced or the penalty is not upheld by the court, the court shall  
23 order, when the court's judgment becomes final, that the  
24 appropriate amount plus accrued interest be remitted to the person  
25 not later than the 30th day after the date the judgment of the court  
26 becomes final.

27 (b) The interest accrues at the rate charged on loans to

1 depository institutions by the New York Federal Reserve Bank.

2 (c) The interest shall be paid for the period beginning on  
3 the date the penalty is paid and ending on the date the penalty is  
4 remitted.

5 Sec. 248A.262. RELEASE OF BOND. (a) If the person gave a  
6 supersedeas bond and the penalty is not upheld by the court, the  
7 court shall order, when the court's judgment becomes final, the  
8 release of the bond.

9 (b) If the person gave a supersedeas bond and the amount of  
10 the penalty is reduced, the court shall order the release of the  
11 bond after the person pays the reduced amount.

12 Sec. 248A.263. ADMINISTRATIVE PROCEDURE. A proceeding to  
13 impose the penalty is considered to be a contested case under  
14 Chapter 2001, Government Code.

15 SECTION 2. Section 411.1105(a), Government Code, is amended  
16 to read as follows:

17 (a) The Department of State Health Services is entitled to  
18 obtain from the department criminal history record information  
19 maintained by the department that relates to ~~[a person who is]~~:

20 (1) an applicant for a chemical dependency counselor's  
21 license, a counselor intern's registration, or a clinical  
22 supervisor certification under Chapter 504, Occupations Code; ~~[or]~~

23 (2) the holder of a license, registration, or  
24 certification under Chapter 504, Occupations Code; or

25 (3) a person required to undergo a background and  
26 criminal history check under Chapter 248A, Health and Safety Code  
27 ~~[that chapter].~~

1 SECTION 3. Section 250.001(3), Health and Safety Code, is  
2 amended to read as follows:

3 (3) "Facility" means:

4 (A) a nursing home, custodial care home, or other  
5 institution licensed by the Department of Aging and Disability  
6 Services under Chapter 242;

7 (B) an assisted living facility licensed by the  
8 Department of Aging and Disability Services under Chapter 247;

9 (C) a home and community support services agency  
10 licensed under Chapter 142;

11 (D) an adult day care facility licensed by the  
12 Department of Aging and Disability Services under Chapter 103,  
13 Human Resources Code;

14 (E) a facility for persons with mental  
15 retardation licensed under Chapter 252;

16 (F) an adult foster care provider that contracts  
17 with the Department of Aging and Disability Services;

18 (G) a facility that provides mental health  
19 services and that is operated by or contracts with the Department of  
20 State Health Services;

21 (H) a local mental health or mental retardation  
22 authority designated under Section 533.035;

23 (I) a person exempt from licensing under Section  
24 142.003(a)(19); ~~or~~

25 (J) a special care facility licensed by the  
26 Department of State Health Services under Chapter 248; or

27 (K) a prescribed pediatric extended care center

1 licensed by the Department of Aging and Disability Services under  
2 Chapter 248A.

3 SECTION 4. Section 32.024, Human Resources Code, is amended  
4 by adding Subsection (jj) to read as follows:

5 (jj) The department shall establish a separate provider  
6 type for prescribed pediatric extended care centers licensed under  
7 Chapter 248A, Health and Safety Code, for purposes of enrollment as  
8 a provider for and reimbursement under the medical assistance  
9 program.

10 SECTION 5. If before implementing any provision of this Act  
11 a state agency determines that a waiver or authorization from a  
12 federal agency is necessary for implementation of that provision,  
13 the agency affected by the provision shall request the waiver or  
14 authorization and may delay implementing that provision until the  
15 waiver or authorization is granted.

16 SECTION 6. (a) Not later than March 1, 2014, the executive  
17 commissioner of the Health and Human Services Commission shall  
18 adopt the rules required by Subchapter C, Chapter 248A, Health and  
19 Safety Code, as added by this Act.

20 (b) Notwithstanding Section 248A.051, Health and Safety  
21 Code, as added by this Act, a person is not required to hold a  
22 prescribed pediatric extended care center license until July 1,  
23 2014.

24 SECTION 7. (a) Except as provided by Subsection (b) of  
25 this section, this Act takes effect September 1, 2013.

26 (b) Subchapters E and F, Chapter 248A, Health and Safety  
27 Code, as added by this Act, take effect July 1, 2014.